IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA	)	CASE NO. 1:16CR00226-001
	)	
Plaintiff,	)	JUDGE: JOHN ADAMS
	)	
-vs-	)	**Sentencing Memorandum**
	)	
NICOLE GATES	)	
	)	
Defendant.	)	

18 U.S.C. §3553 : Imposition of Sentence (a) sets forth the factors to be considered in Imposing a Sentence. The court shall imposed a sentence sufficient, but not greater than necessary to comply with the purposes set forth in paragraph (2). The court in determining the particular sentence to be imposed, shall consider-

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed –

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) To provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available

(4) the kinds of sentence and the sentencing range established for the applicable category of defendant as set forth in the guidelines. The defendant agrees with the guideline calculation as set forth in paragraph 89 concluding that the offense category is 7 and criminal history category of 1 resulting in a range of 0-6 months. As such, sentencing Ms. Gates to a term of probation would be sufficient to comply with the purposes as set forth in §3353.

Unlike the garden variety workers's comp fraud case where a person may never have been seriously injured or there were no objective medical findings to corroborate the injury, Gates has undergone five (5) separate surgeries on her knee. In addition the governments own Doctor corroborated Gates condition and the need for further surgical intervention.

Gates's own history shows her to be a loving mother of two (2) children, no criminal history, and person who has always worked during her adult life. In addition, Gates has been on pretrial supervision since being indicted and has complied with the terms and conditions of her supervision. Clearly, there is no need to incarcerate her to deter future criminal activity or protect the public. Also, probation would provide just punishment as Gates will always be a convicted felon thereby reducing her income potential dramatically over her working life.

CONCLUSION

Based on the foregoing, the defendant respectfully asks this court to sentence her to a term of probation as adequate punishment for the crimes of which she stands convicted.

Respectfully submitted,

_s/Kirk A. Migdal___________

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